



## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 92**

**[Docket No. FWS–R7–MB–2020–0134; FXMB12610700000–201–FF07M01000]**

**RIN 1018–BF08**

### **Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2021 Season**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (FWS, Service, or we) is revising the migratory bird subsistence harvest regulations in Alaska. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. This rule incorporates regulatory revisions requested by these partners.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** You may find the comments submitted on the proposed rule as well as supplementary materials for this rulemaking action at the Federal eRulemaking Portal: <http://www.regulations.gov> in Docket No. FWS–R7–MB–2020–0134.

***Information Collection Requirements:*** Written comments and suggestions on the information collection requirements may be submitted at any time to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or Info\_Coll@fws.gov (email). Please reference “OMB Control Number 1018–BF08” in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** Eric J. Taylor, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 903–7210.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

The Migratory Bird Treaty Act of 1918 (MBTA, 16 U.S.C. 703 et seq.) was enacted to conserve certain species of migratory birds and gives the Secretary of the Interior the authority to regulate the harvest of these birds. The law further authorizes the Secretary to issue regulations to ensure that the indigenous inhabitants of the State of Alaska may take migratory birds and collect their eggs for nutritional and other essential needs during seasons established by the Secretary “so as to provide for the preservation and maintenance of stocks of migratory birds” (16 U.S.C. 712(1)).

The take of migratory birds for subsistence uses in Alaska occurs during the spring and

summer, during which timeframe the sport harvest of migratory birds is not allowed.

Regulations governing the subsistence harvest of migratory birds in Alaska are located in title 50 of the Code of Federal Regulations (CFR) in part 92. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds and prescribe regional information on when and where the harvesting of birds in Alaska may occur.

The migratory bird subsistence harvest regulations are developed cooperatively by the Alaska Migratory Bird Co-Management Council (AMBCC or the Council), which consists of the U.S. Fish and Wildlife Service, the Alaska Department of Fish and Game (ADFG), and representatives of Alaska's Native population. The Council's primary purpose is to develop recommendations pertaining to the subsistence harvest of migratory birds.

This rule incorporates changes to the subsistence harvest regulations that were recommended by the Council in 2020 as described below. This rule also sets forth an updated list of migratory bird species open to subsistence harvest.

### **Comments Received on the Proposed Rule**

Per the collaborative process described above, we published a proposed rule to update the regulations for the taking of migratory birds for subsistence uses in Alaska during the spring and summer (86 FR 11707, February 26, 2021). By the end of the comment period on the proposed rule, we received five comments. While one comment pertained to an issue that is outside the scope of this rulemaking action, we hereby respond to the relevant issues that were raised in the public input. We made no changes to the proposed rule as a result of the input we received via the public comments (see **Final Regulations**, below, for more information).

*Issue:* One commenter expressed the following concerns: (i) Migratory bird populations cannot sustain hunting pressure; (ii) migratory birds are resources belonging to all residents of the United States; (iii) the proposed Kodiak Island Roaded Area permit hunt did not undergo sufficient public review; (iv) the Service's treatment of common and Wilson's snipe in Alaska is incorrect by conflating them together; and (v) the Service's enforcement of prohibitions on

the use of lead shot to hunt waterfowl is insufficient.

*Response:* The Service conducts migratory bird population and harvest surveys to monitor potential effects of hunting on abundance, distribution, and trend; further, we use an adaptive harvest strategy to ensure harvest does not impact sustainable and healthy waterfowl populations. The Service agrees that migratory birds should be managed on a flyway or continental basis for the enjoyment of all U.S. residents.

The proposed 3-year experimental Kodiak Roaded Area Permit hunt underwent a rigorous review over a multiyear period involving Council, Flyway, and national public review periods. We explain the process establishing the experimental hunt in our May 11, 2020, proposed rule (85 FR 27698) in the preamble under “(5) Kodiak Archipelago Region Kodiak Island Roaded Area Closure,” and our response to comments on this topic is found in our November 17, 2020, final rule (85 FR 73233).

Snipe in Alaska are recognized primarily as Wilson’s snipe, but common snipe are known to occur on the Aleutian Islands of Alaska. Thus, for administrative purposes, we clarify that snipe includes both recognized species in Alaska: Wilson’s snipe and common snipe. The separation of these species in the list of migratory birds open to subsistence harvest will not result in differential harvest effects on either species.

The Service agrees with the commenter’s concern about detrimental effects of lead shot on migratory birds. The nationwide ban on the use of lead shot for hunting waterfowl occurred in 1991. The Service’s Office of Law Enforcement and law enforcement officers of the National Wildlife Refuge System work with State law enforcement personnel to check waterfowl hunters during the Alaska spring-summer subsistence and fall-winter seasons for use of nontoxic ammunition. The Service has also worked with vendors in rural Alaska to remove lead shot from being available and sold during the migratory bird hunting seasons.

*Issue:* A commenter recommended: (i) support for establishing regulations to support the cultural and traditional importance of spring-summer subsistence harvest of migratory birds

in Alaska; (ii) that important areas where protected species congregate be closed to hunting; and (iii) that closed areas of hunting could allow assessment of hunting mortality versus other forms of mortality. The commenter also inquired if violations of the MBTA are enforced by the Service.

*Response:* The Service appreciates support for the traditional, cultural, and nutritional benefits attained by the spring-summer harvest of migratory birds in rural Alaska. Breeding, staging, molting, and wintering habitats of protected species, including spectacled and Steller's eiders, are important to other hunted migratory birds; therefore, it is not possible to close specific areas to all hunting. The Service appreciates the comment regarding the need to understand sources of mortality and their respective impacts to population abundance and trends. However, the closure of a specific area to hunting will not allow a greater understanding of hunting as a source of mortality due to the migratory nature of most species. In regard to the comment if violations of the MBTA are enforced by the Service, to decrease risk of illegal harvest of protected species, the Service relies on public education and outreach to describe species closed to harvest. Please see page 28 of *Regulations for the 2021 Alaska Subsistence Spring/Summer Migratory Bird Harvest* (available in the docket on [www.regulations.gov](http://www.regulations.gov)) as an example of public outreach to protect threatened spectacled and Steller's eiders. The Service also monitors and enforces hunting regulations through its Office of Law Enforcement.

*Issue:* A commenter requested the Service protect migratory birds from hunting.

*Response:* The MBTA allows for the lawful and sustainable harvest of migratory birds per annual hunting regulations. Spring-summer subsistence and fall-winter hunting regulations are established each year, the impacts of which are monitored by annual population and harvest surveys.

*Issue:* A commenter expressed interest in and support for establishing State-specific migratory bird harvest regulations.

*Response:* The Service appreciates the commenter's support for establishing Alaska spring-summer migratory bird subsistence harvest regulations.

### **Proposed Regulatory Revisions**

The proposed rule (86 FR 11707, February 26, 2021) set forth the same subsistence harvest regulations in subpart D, Annual Regulations Governing Subsistence Harvest, as those from the 2020 subsistence harvest seasons (see 85 FR 18455, April 2, 2020; 85 FR 27698, May 11, 2020; 85 FR 49601, August 14, 2020; and 85 FR 73233, November 17, 2020) with the following two exceptions and three clarifications from the 2020 seasons:

*(1) Upper Copper River Region Permit for Hunters from Excluded Areas To Hunt in the Region*

This change to the regulations in part 92, subpart A (general provisions) would add another method (a permit) to invite a hunter from an excluded area to participate in the spring-summer subsistence hunt in the Upper Copper River region.

Current regulations in 50 CFR 92.5(d) allow immediate family members (children, parents, grandparents, and siblings) living in excluded areas to participate in the customary spring-summer subsistence harvest of migratory birds in a village's subsistence area, if invited via letter by the respective Village Council, to assist permanent residents of the village in meeting their nutritional and other essential needs or for teaching cultural knowledge. A letter of invitation is sent to the hunter with a copy provided to the Executive Director of the Council, who then informs the Service's Alaska Regional Office of Law Enforcement within 2 business days. In addition to the letter of invitation, this new permit system adds another method to invite a hunter from an excluded area to participate in the spring-summer subsistence hunt in the Upper Copper River region. The permit will certify that the prospective hunter is an immediate family member as defined in 50 CFR 92.4 and is thereby authorized to assist family members in hunting migratory birds in the subsistence harvest area of the region.

To date, the Council Executive Director has received two letters of invitation to hunt in

the State of Alaska since the last revision of 50 CFR 92.5(d) in 2014 (79 FR 19454, April 8, 2014). The letter of invitation requirement is viewed by the Upper Copper River Region as burdensome and administratively inefficient due in large part to high turnover in Tribal administrative staff. In the Upper Copper River Region, an invitation to hunt by permit is considered less onerous and a more practical approach for eligible hunters to invite participation by family members living in excluded areas. This regulatory revision adds the invitation by permit as an option for Tribal Councils or their authorized Tribal representatives in the Upper Copper River Region to administer the invitation to hunt in their subsistence harvest area. Invited hunters will be required to carry the permit while hunting as proof of eligibility. The permit will be valid for 2 years from the date of issuance. A list of permittees will be forwarded to the Council Executive Director, who will then forward the list to the Service's Alaska Regional Office of Law Enforcement.

This change to the regulations in subpart A is not anticipated to result in a significant increase in harvest of birds and eggs in the Upper Copper River Region because invited hunters are authorized only to assist in fulfilling the needs of immediate family members in villages or teaching cultural knowledge.

*(2) Closure on Harvest of Emperor Goose Eggs Statewide*

This change to the regulations in part 92, subpart C (general regulations governing the subsistence harvest general provisions) closes the harvest of emperor goose eggs statewide.

The abundance (index) of emperor geese (*Anser canagicus*) is estimated annually via the Service's (Alaska Region) Yukon-Kuskokwim Delta Coastal Zone (Coastal Zone) survey. This information is used to inform harvest management decisions for emperor geese based on harvest strategies in the Council Emperor Goose Management Plan (Plan) and the Pacific Flyway Council Management Plan. The harvest strategy in the Plan prescribes an open emperor geese subsistence season if the Coastal Zone index from the previous year is greater than 23,000 geese, and a closed season if the index is below 23,000 geese. If the Coastal Zone

index is between 23,000 and 28,000 geese, the Council will consider implementing regulatory or nonregulatory conservation measures to help avoid a closed season in subsequent seasons. In 2019, the Coastal Zone index (26,585; 95% Confidence Limit = 24,161–29,008 geese) dropped below the 28,000-bird threshold that triggers consideration of conservation measures. For the 2020 spring-summer hunting season, the Council agreed to develop and distribute outreach and educational materials to help limit emperor goose harvest. The coronavirus pandemic forced the cancellation of the Coastal Zone survey in 2020. Consequently, no Coastal Zone index was available to inform regulatory decisions for the 2021 season.

The harvest strategy in the Plan does not include guidance on making regulatory decisions in the absence of previous year's survey data; thus, the Council's Emperor Goose Subcommittee convened on June 2, 2020, to consider available emperor goose population status information in the absence of the 2020 Coastal Zone index. Subcommittee members considered results from a number of approaches to infer emperor goose population status in 2020 including prediction from a demographic model (Osnas 2020). Results from the different approaches were in general agreement, and indicated that abundance of emperor geese in 2020 likely remains between the 23,000- and 28,000-population thresholds with low probability that abundance was below the closure threshold.

Because the predicted abundance of emperor geese remains between the population thresholds requiring consideration of conservation measures, the Council's Emperor Goose Subcommittee and Council recommended the emperor goose season remain open in 2021. This recommendation includes outreach and educational efforts and closure of emperor goose egg gathering in Alaska to help limit harvest of emperor geese, considering the uncertainty in emperor goose population status in 2020 and the desire to reduce the probability of having a closed season in the future. This regulatory change affects the list of subsistence migratory bird species in § 92.22, which is in subpart C.

*Clarification of Central Interior Excluded Area Boundary*



Current regulations in 50 CFR 92.5(b)(1) define the geographic boundaries of the Central Interior Excluded Area but mistakenly fail to include the Fairbanks North Star Borough. In 2007, the Service enacted the ADFG's request to expand the Fairbanks North Star Borough Excluded Area (72 FR 18317 April 11, 2007). This regulatory change appears in 50 CFR 92.5(b)(3). The expanded Fairbanks North Star Borough Excluded Area was renamed the Central Interior Excluded Area, but the description of the area defined in 50 CFR 92.5(b)(3) failed to specifically include the Fairbanks North Star Borough. This rule clarifies this regulatory text by including the words "Fairbanks North Star Borough" in the description of the Central Interior Excluded Area.

*Clarification of the Kodiak Archipelago Region Kodiak Island Roaded Area 3-Year Experimental Season*

In 2020, the Service approved a 3-year experimental season for migratory bird hunting and egg gathering by registration permit only within the Kodiak Island Roaded Area in the Kodiak Archipelago Region of Alaska, as recommended by the Council in 2019 (85 FR 73233, November 17, 2020). This regulatory change appears in 50 CFR 92.31. The Roaded Area was to remain closed to hunting and egg gathering for Arctic terns, Aleutian terns, mew gulls, and emperor geese. The regulation allows residents of the Kodiak Archipelago Region the opportunity to participate in subsistence hunting activities without the need for a boat in an area that otherwise restricts hunting to 500 feet offshore and offshore islands.

Initially, we and the Council expected that the 3-year experimental season would begin in 2020 and continue through 2022. In the supplementary information of the 2020 proposed and final rules, we associated those years (2020–2022) with the 3-year experimental season, although years were not specified in the regulations allowing the season. Delay in publishing the proposed and final rules in 2020 prevented the 3-year experimental season from beginning in 2020 as initially expected. Therefore, we clarify here that our intent remains the same—to allow a 3-year experimental season for migratory bird hunting and egg gathering by

registration permit along the Kodiak Island Roaded Area in the Kodiak Archipelago Region of Alaska—but that this season is now expected to occur during the 2021–2023 subsistence seasons. The experimental season will terminate at the completion of the third year, now expected to be in 2023. Reopening the Roaded Area after the 3-year experimental period will require a subsequent proposal from the Council for continuation of the season under either operational or experimental status.

*Clarification of the Kodiak Archipelago Region Kodiak Island Roaded Area Boundary*

As described above, in 2020 the Service approved a 3-year experimental season for migratory bird hunting and egg gathering by registration permit within the Kodiak Island Roaded Area in the Kodiak Archipelago Region of Alaska, as recommended by the Council in 2019 (85 FR 73233, November 17, 2020). This regulatory change appears in 50 CFR 92.31. Prior to this change, the Kodiak Island Roaded Area was closed to hunting. Following approval of a hunt within the previously closed area, the current boundary description of the Kodiak Island Roaded Area in 50 CFR 92.31(e) includes the term “closed area.” We now clarify the language by replacing the words “closed area” with “Kodiak Island Roaded Area” in 50 CFR 92.31(e) and by improving the clarity of the boundary description.

**Subsistence Migratory Bird Species**

On April 16, 2020, we published in the *Federal Register* (85 FR 21282) a revised List of Migratory Birds protected under the Migratory Bird Treaty Act (MBTA) by both adding to and removing species from the list, which appears in 50 CFR 10.13. Reasons for the changes to the list included adding species based on revised taxonomy and new evidence of natural occurrence in the United States or U.S. territories, removing species no longer known to occur within the United States or U.S. territories, and changing names to conform to accepted use. This rule went into effect on May 18, 2020. The revised List of Migratory Birds updated nomenclature (family or scientific name) for 17 species on the list of birds open to subsistence harvest (50 CFR 92.22) and separated Canada goose into two separate species: Cackling goose

(*Branta hutchinsii*) and Canada goose (*Branta canadensis*). Therefore, to be consistent with the taxonomy on the List of Migratory Birds, we are updating the taxonomy of the list of migratory birds open to subsistence harvest at 50 CFR 92.22 and correcting 11 typographical errors in species common names.

We are also taking this opportunity to reorganize the list of migratory birds open to subsistence harvest to follow the order of bird families as they appear in 50 CFR 10.13, and we are adding the common snipe (*Gallinago gallinago*) to the list of migratory birds open to subsistence harvest. On April 1, 2016, we published in the *Federal Register* (81 FR 18787) a revised list of migratory bird subsistence species in which we replaced the common snipe with Wilson's snipe (*Gallinago delicata*) to account for taxonomic changes; Wilson's snipe was previously considered a subspecies under common snipe. Snipe in Alaska are recognized primarily as Wilson's snipe, but common snipe are known to occur on the Aleutian Islands of Alaska. Thus, for administrative purposes, we clarify that snipe includes both recognized species in Alaska: Wilson's snipe and common snipe. Because, historically, common snipe applied to both species of snipe, the separation of these species in the list of migratory birds open to subsistence harvest will not result in differential harvest effects on either species.

### **Final Regulations**

We are making no changes to the regulatory revisions in our February 26, 2021 (86 FR 11707), proposed rule as a result of the input we received via the public comments.

### **Compliance With the MBTA and the Endangered Species Act**

The Service has dual objectives and responsibilities for authorizing a subsistence harvest while protecting migratory birds and endangered and threatened species. Although these objectives continue to be challenging, they are not irreconcilable, provided that: (1) regulations continue to protect endangered and threatened species; (2) measures to address

documented threats are implemented; and (3) the subsistence community and other conservation partners commit to working together.

Mortality, sickness, and poisoning from lead exposure have been documented in many waterfowl species. The Service will work with partners to increase our education, outreach, and enforcement efforts to ensure that subsistence waterfowl hunting is conducted using nontoxic shot.

#### *Conservation Under the MBTA*

We have monitored subsistence harvest for more than 25 years through the use of household surveys in the most heavily used subsistence harvest areas, such as the Yukon–Kuskokwim Delta. Based on our monitoring of the migratory bird species and populations taken for subsistence, we find that this rule will provide for the preservation and maintenance of migratory bird stocks as required by the MBTA. Communication and coordination between the Service, the Council, and the Pacific Flyway Council have allowed us to set harvest regulations to ensure the long-term viability of the migratory bird stocks.

#### *Endangered Species Act Consideration*

Section 7 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 et seq.) requires the Secretary of the Interior to review other programs administered by the Department of the Interior and utilize such programs in furtherance of the purposes of the ESA. The Secretary is further required to insure that any action authorized, funded, or carried out by the Department of the Interior is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat.

Spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*) are listed as threatened species under the ESA. Their migration and breeding distribution overlap with areas where the spring and summer migratory bird subsistence hunt is open in Alaska. Neither species is included in the list of subsistence

migratory bird species at 50 CFR 92.22; therefore, both species are closed to subsistence harvest.

The Alaska Division of Migratory Bird Management conducted an intra-agency consultation with the Service's Anchorage Fish and Wildlife Field Office on the proposed rule (86 FR 11707, February 26, 2021). The consultation was completed with a biological opinion that concluded these rulemaking actions are not likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. Therefore, we have determined that this rule complies with the ESA.

### **Immediate Effective Date**

This rule takes effect on the date set forth above in **DATES**. Delaying the effective date for 30 days would have detrimental effects on Alaskans seeking to conduct subsistence harvest of migratory birds. To respect the subsistence hunt of many rural Alaskans, either for their cultural or religious exercise, sustenance, and/or materials for cultural use (e.g., handicrafts), the Department of the Interior finds that it is in the public interest to make this rule effective as soon as possible. For these reasons, we find that "good cause" exists within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act and under the authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703 et seq.), to make this rule take effect immediately upon publication in the *Federal Register*.

### **Required Determinations**

#### *Regulatory Planning and Review (Executive Orders 12866 and 13563)*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving

regulatory ends. The Executive Order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

#### *Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. This rule would legalize a preexisting subsistence activity, and the resources harvested will be consumed.

#### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Would not have an annual effect on the economy of \$100 million or more. It legalizes and regulates a traditional subsistence activity. It will not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns. The commodities that will be regulated under this rule are migratory birds. This rule deals with legalizing the subsistence harvest of migratory birds and, as such, does not involve commodities traded in the marketplace. A small economic benefit from this rule derives from the sale of equipment and ammunition to carry out subsistence hunting. Most, if not all, businesses that sell hunting equipment in rural Alaska qualify as small businesses. We have no reason to believe that this rule would lead to a disproportionate distribution of benefits.

(b) Would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This rule does

not deal with traded commodities and, therefore, would not have an impact on prices for consumers.

(c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule deals with the harvesting of wildlife for personal consumption. It would not regulate the marketplace in any way to generate substantial effects on the economy or the ability of businesses to compete.

#### *Unfunded Mandates Reform Act*

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, State, or Tribal governments or private entities. The rule would not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required.

Participation on regional management bodies and the Council requires travel expenses for some Alaska Native organizations and local governments. In addition, they assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than \$300,000 per year. In a notice of decision (65 FR 16405, March 28, 2000), we identified 7 to 12 partner organizations (Alaska Native nonprofits and local governments) to administer the regional programs. The ADFG also incurs expenses for travel to Council and regional management body meetings. In addition, the State of Alaska is required to provide technical staff support to each of the regional management bodies and to the Council. Expenses for the State's involvement may exceed \$100,000 per year, but should not exceed \$150,000 per year. When funding permits, we make annual grant agreements available to the partner organizations and the ADFG to help offset their expenses.

#### *Takings (Executive Order 12630)*

Under the criteria in Executive Order 12630, this rule does not have significant takings implications. This rule is not specific to particular land ownership, but applies to the harvesting of migratory bird resources throughout Alaska. A takings implication assessment is not required.

*Federalism (Executive Order 13132)*

Under the criteria in Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. We discuss effects of this rule on the State of Alaska in the *Unfunded Mandates Reform Act* section, above. We worked with the State of Alaska to develop these regulations. Therefore, a federalism summary impact statement is not required.

*Civil Justice Reform (Executive Order 12988)*

The Department, in promulgating this rule, has determined that it would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

*Government-to-Government Relations with Native American Tribal Governments*

Consistent with Executive Order 13175 (65 FR 67249; November 6, 2000), “Consultation and Coordination with Indian Tribal Governments,” and Department of the Interior policy on Consultation with Indian Tribes (December 1, 2011), we consulted with Alaska Federally recognized Indian Tribes affected by these regulations to solicit their input.

We implemented the amended treaty with Canada with a focus on local involvement. The treaty calls for the creation of management bodies to ensure an effective and meaningful role for Alaska’s indigenous inhabitants in the conservation of migratory birds. According to the Letter of Submittal, management bodies are to include Alaska Native, Federal, and State of Alaska representatives as equals. They develop recommendations for, among other things: seasons and bag limits, methods and means of take, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, and habitat



protection. The management bodies involve village councils to the maximum extent possible in all aspects of management. To ensure maximum input at the village level, we require each of the 11 participating regions to create regional management bodies consisting of at least one representative from the participating villages. The regional management bodies meet at least one time each year to review and/or submit proposals to the statewide body.

*Paperwork Reduction Act of 1995 (PRA)*

This rule contains existing, revised, and new information collections. All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has previously approved the information collection requirements associated with subsistence harvest reporting and assigned OMB Control Number 1018–0124. We will submit a revision to 1018–0124 to incorporate the new harvest reporting requirements contained in this rule. Additionally, we will request a new OMB control number for the permit and information letter requirements contained in this rule.

The existing information collection requirements identified below are currently approved by OMB under Control Number 1018–0124:

The harvest surveys collect information on the subsistence harvest in Alaska of ~60 species categories of birds and their eggs (geese, ducks, swans, crane, ptarmigan and grouse, seabirds, shorebirds, loons and grebes). Survey data includes species category and amounts of birds and eggs taken for subsistence use in each harvest season (spring, summer, fall, winter). The surveys rely on collaboration among the FWS, the ADFG, and many Alaska Native organizations. Contracts and cooperative agreements are in place to facilitate the collection of data with Alaska Native organizations and other regional and local partners. Surveyors contact local residents. The ADFG Division of Subsistence coordinates the surveys on behalf of the Council via a cooperative agreement with the FWS.

The FWS uses the survey data to:

- (1) Inform harvest regulations for migratory birds and their eggs so they are consistent with the long-term sustainability of bird populations;
- (2) Document subsistence harvest trends and track changes in harvest;
- (3) Document the importance of birds as food and cultural resources for subsistence communities in Alaska;
- (4) Protect sustainable harvest opportunities; and
- (5) Assist in the development of management plans by State and Federal agencies.

Federal and State agencies use the data collected to develop harvest regulations and protect sustainable harvest opportunities. The FWS adjusts harvest regulations as needed to provide maximum and sustainable subsistence harvest opportunities while accounting for current bird population status and population goals established in species' management plans. The Council uses this information to make regulation recommendations to the Service Regulations Committee. Nongovernmental organizations use survey data to monitor the status of uses of migratory bird resources in Alaska and internationally. The survey also became a main line of communication between wildlife management agencies and the local communities and harvesters.

Participation in the surveys is voluntary for communities and households. In selected communities that agree to participate, surveyors compile a list of all permanent households or addresses, provide information about the survey, and assist households to complete the harvest report form (hardcopy) in in-person interviews. Households may offer comments on their harvest, on the availability of birds, on the survey, or any other topic related to bird harvest. The survey uses the following forms:

(1) **Tracking Sheet & Household Consent (FWS Form 3–2380):** The surveyor invites each selected household to participate and completes FWS Form 3–2380 documenting whether each selected household agreed to participate, did not agree, or could not be contacted.

The surveyor also uses this form to keep track of survey work.

**(2) Harvest Report (FWS Forms 3–2381–1, 3–2381–2, 3–2381–3, 3–2381–4, and 3–2381–5):** The forms have up to four sheets, one for each surveyed season. The Western and Interior forms (3–2381–1 and 3–2381–3; ~394 households surveyed per year) have 3 sheets (spring, summer, and fall). The Bristol Bay form has 4 sheets (spring, summer, fall, winter; ~110 households surveyed per year). The North Slope form has 2 sheets (spring and summer; ~150 households surveyed per year). The Cordova form has only 1 sheet (spring; ~27 households surveyed per year). The weighted average for the whole survey is 2.96 seasonal sheets (rounded as 3 for calculation of burden estimates). Each seasonal sheet has drawings of bird species, next to which are fields to record the number of birds and eggs harvested. Because bird species available for harvest vary in different regions of Alaska, there are five versions of the harvest report form with different sets of species. This helps to prevent erroneously recording bird species as harvested in areas where they do not usually occur.

The revised and new information collection requirements identified below require approval by OMB in conjunction with the revision to OMB Control Number 1018–0124:

**(1) Splitting burden estimates for 3–2381–5, Cordova survey (REVISED):** We realized the previous submission to OMB incorrectly reported 3 submissions of the Cordova survey rather than a single submission for the spring season. We are separating the burden for this survey out separately from FWS Form 3–2381–1, Form 3–2381–2, Form 3–2381–3, and Form 3–2381–4 to more accurately report harvest data reporting burden.

**(2) Harvest Report (FWS Forms 3–2381–6 (new) and 3–2381–7 (NEW):** Starting in 2021, a mail survey akin to that conducted for the Cordova harvest will be implemented for the Kodiak roaded area harvest as required by updated Federal regulations for the Kodiak Archipelago region. To participate in the Kodiak roaded area harvest, harvesters are required to obtain a permit and to complete a harvest report form, even if they did not harvest. (We will request OMB approval of this permit requirement in a separate request for a new OMB control

number explained below). Staff from the ADFG Division of Subsistence worked in close collaboration with the Sun'aq Tribe of Kodiak to develop the permit and harvest reporting system. The Sun'aq Tribe requested in-season harvest reporting. Permits will be issued by the Sun'aq Tribe.

The Kodiak Roaded Area In-Season Harvest Report (FWS Form 3-2381-6) will be provided to permit holders at the time the permit is issued. Harvesters are required to record their harvest using this form during the season. At the end of the season (early Sept.), all permit holders are required to submit the completed Kodiak Roaded Area In-Season Harvest Report (FWS Form 3-2381-7) indicating whether they harvested birds and eggs, and if so, the kinds and amounts of birds and eggs harvested. Permit holders submit the completed form by mail to the ADFG for data analysis (the form includes the return address and is postage-paid). To ensure a more complete harvest reporting, the ADFG will mail a post-season harvest survey to permit holders who did not submit a completed in-season harvest log. The post-season mail survey includes two reminders. Reported harvests will be extrapolated to represent all permit holders based on statistical methods. Forms 3-2381-6 and 3-2381-7 are only completed twice per year (spring and summer seasons).

*Title of Collection:* Alaska Migratory Bird Subsistence Harvest Household Surveys.

*OMB Control Numbers:* 1018-0124.

*Form Numbers:* FWS Form 3-2381-1, Form 3-2381-2, Form 3-2381-3, Form 3-2381-4, Form 3-2381-5, Form 3-2381-6 (New), and Form 3-2381-7 (New).

*Type of Review:* Revision to a previously approved information collection.

*Respondents/Affected Public:* Individuals and Tribal governments.

*Total Estimated Number of Annual Respondents:* 2,351.

*Total Estimated Number of Annual Responses:* 4,551.

*Estimated Completion Time per Response:* 5 minutes.

*Total Estimated Number of Annual Burden Hours:* 379.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* None.

The additional information collection requirements associated with permits and invitation letters contained in this rule identified below require approval by OMB and assignment of a new OMB control number:

(1) **Tribal or Village Council Invitation Letter:** Regulations at 50 CFR 92.5(d) allow immediate family members (children, parents, grandparents, and siblings) living in excluded areas to participate in the customary spring-summer subsistence harvest of migratory birds in a village's subsistence area. This letter of invitation is intended to assist permanent residents of the village in meeting their nutritional and other essential needs or for teaching cultural knowledge. The regulations specify that participation of residents of excluded areas in the spring-summer harvest of migratory birds in an eligible area must be pre-authorized by a letter of invitation issued by a local Tribal or Village Council within the harvest area.

(2) **Tribal Council Invitation Permit:** This rulemaking action establishes a permit as another method to invite an immediate family member residing in an excluded area to participate in the spring-summer subsistence hunt in the Upper Copper Region. The permit, issued by the Tribal Council or their authorized Tribal representative, certifies that the prospective hunter is an immediate family member as defined in 50 CFR 92.4 and is thereby authorized to assist family members in hunting migratory birds in the Upper Copper River Region. The permit is valid for 2 years from the date of issuance.

(3) **Tribal Council Notifications to AMBCC:** Tribal Councils will provide a list of permittees to the Executive Director of the AMBCC.

(4) **AMBCC Notification to Alaska Regional Office of Law Enforcement:** Upon receiving copies of the letters of invitation and issued permits from Tribal and Village Councils, the AMBCC Executive Director will inform the Service's Alaska Regional Office of

Law Enforcement (AK–OLE) within 2 business days. To date, only two letters have been received.

(5) **Kodiak Island Roded Area Experimental Season Permit:** The Service’s 2020 final rule (RIN 1018–BF12, 85 FR 73233, November 17, 2020) approved a 3-year experimental season for migratory bird hunting and egg gathering in the Kodiak Island Roded Area in the Kodiak Archipelago Region (50 CFR 92.31). Harvesting in the Kodiak roded area requires a mandatory permit and harvest reporting. The Sun’aq Tribe of Kodiak worked in close collaboration with the ADFG Division of Subsistence to develop a permit and harvest monitoring system. Permits are issued by the Sun'aq Tribe of Kodiak to individual harvesters. The Sun’aq Tribe provide copies of issued permits to the ADFG Division of Subsistence, which uses this information to manage the harvest reporting system. The permit includes fields to write the permit holder’s name and mailing address as well as a field for the permit holder to sign acknowledging the terms of the permit. The permit also includes a map of the harvest area and description of the harvest regulations including the list of species open to harvest. Permit data are securely disposed of after completion of the annual harvest data collection and analysis.

The regulation allows a 3-year experimental season (this rule updates the seasons from 2020–2022 to 2021–2023) for migratory bird hunting and egg gathering by registration permit along the Kodiak Island Roded Area in the Kodiak Archipelago Region of Alaska. The experimental season will terminate at the completion of the third year in 2023. Reopening the Roded Area after the 3-year experimental period will require a subsequent proposal for continuation of the season under either operational or experimental status.

(6) **Cordova Harvest Household Registration:** The Service’s final rule that published on April 8, 2014 (79 FR 19454), authorized spring-summer harvest of migratory birds by residents of the community of Cordova in the Gulf of Alaska region. In 2017, the regulations were updated to allow residents of the neighboring communities of Tatitlek and Chenega to

harvest in the area defined for the Cordova harvest (82 FR 16298, April 4, 2017). Local partners including the Eyak Tribe and the U.S. Forest Service Chugach Subsistence Program in Cordova worked in close collaboration with the ADFG Division of Subsistence to develop a household registration and harvest monitoring system using a post-season mail survey. Household registrations are issued by the Tribal councils of the communities of Cordova, Tatitlek, and Chenega as well as by the U.S. Forest Service Chugach Subsistence Program in Cordova. The registration form includes fields to write the permit holder's name and mailing address as well as a field for the permit holder to sign acknowledging the terms of the permit. The permit also includes fields to write the names of other household members authorized to harvest under the registration. Registration data are securely disposed of after completion of the annual harvest data collection and analysis.

*Title of Collection:* Regulations for the Taking of Migratory Birds for Subsistence Uses in Alaska, 50 CFR Part 92.

*OMB Control Numbers:* 1018–0178.

*Form Numbers:* None.

*Type of Review:* New.

*Respondents/Affected Public:* Individuals and Tribal governments.

*Total Estimated Number of Annual Respondents:* 234.

*Total Estimated Number of Annual Responses:* 234.

*Estimated Completion Time per Response:* Varies from 15 minutes to 30 minutes, depending on activity.

*Total Estimated Number of Annual Burden Hours:* 62.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* None.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite

the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

This final rule is effective immediately upon publication, for the reasons set forth above under **Immediate Effective Date**. We will, however, accept and consider all public comments concerning the information collection requirements received in response to this final rule. Send your written comments and suggestions on this information collection to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov) (email). Please reference “OMB Control Number 1018–BF08” in the subject line of your comments.

*National Environmental Policy Act Consideration (42 U.S.C. 4321 et seq.)*

Implementation of the Service’s 2013 supplemental environmental impact statement on the hunting of migratory birds resulted in changes to the overall timing of the annual regulatory schedule for the establishment of migratory bird hunting regulations and the Alaska migratory bird subsistence harvest regulations. The programmatic document, “Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the



Sport Hunting of Migratory Birds (EIS 20130139),” addresses compliance with the National Environmental Policy Act by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the *Federal Register* on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376).

The annual regulations and options are considered in a January 2021 environmental assessment, “Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2021 Spring/Summer Harvest.” Copies are available from the person listed under **FOR FURTHER INFORMATION CONTACT** or at <http://www.regulations.gov>.

*Energy Supply, Distribution, or Use (Executive Order 13211)*

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This is not a significant regulatory action under this Executive Order; it allows only for traditional subsistence harvest and improves conservation of migratory birds by allowing effective regulation of this harvest. Further, this rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, a Statement of Energy Effects is not required.

## **Reference Cited**

Osnas, E. 2020. A simple state space model framework to predict harvest management survey observations in 2020. USFWS, publ. analyses: <https://github.com/USFWS/State-Space-Prediction-2020>.

## **List of Subjects in 50 CFR Part 92**

Hunting, Treaties, Wildlife.

## **Regulation Promulgation**

For the reasons set out in the preamble, we amend title 50, chapter I, subchapter G, of the Code of Federal Regulations as follows:

## **PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA**

1. The authority citation for part 92 continues to read as follows:

AUTHORITY: 16 U.S.C. 703–712.

2. Amend § 92.5 by revising paragraphs (b)(3) and (d) to read as follows:

**§ 92.5 Who is eligible to participate?**

\* \* \* \* \*

(b) \* \* \*

(3) The Central Interior Excluded Area comprises the following: The Fairbanks North Star Borough and that portion of Unit 20(A) east of the Wood River drainage and south of Rex Trail, including the upper Wood River drainage south of its confluence with Chicken Creek; that portion of Unit 20(C) east of Denali National Park north to Rock Creek and east to Unit 20(A); and that portion of Unit 20(D) west of the Tanana River between its confluence with the Johnson and Delta Rivers, west of the east bank of the Johnson River, and north and west of the Volmar drainage, including the Goodpaster River drainage. The following communities are within the Excluded Area: Delta Junction/Big Delta/Fort Greely, McKinley Park/Village, Healy, Ferry, and all residents of the formerly named Fairbanks North Star Borough Excluded Area.

\* \* \* \* \*

(d) *Participation by permanent residents of excluded areas.* Immediate family members who are residents of excluded areas may participate in the customary spring and summer subsistence harvest in a community's subsistence area with permission of the Village or Tribal council, whichever is appropriate, to assist indigenous inhabitants in meeting their nutritional and other essential needs or for the teaching of cultural knowledge using one of the following procedures:

(1) A letter of invitation will be sent by the Tribal or village council to the hunter with a copy to the Executive Director of the Co-management Council, who will inform the Service's Alaska Region Law Enforcement Office and the Service's Co-management Council

Coordinator within 2 business days. The Service will then inform any affected Federal agency when residents of excluded areas are allowed to participate in the subsistence harvest within their Federal lands.

(2) For the Upper Copper River Region, a permit may be issued by the Tribal Council or their authorized Tribal representative to the invited hunter certifying that the permit holder is an immediate family member authorized to assist eligible family members in hunting migratory birds in the Tribe's subsistence harvest area. A permit is valid for 2 years from date of issuance. A list of permit holders will be sent to the Executive Director of the Co-management Council, who will inform the Service's Alaska Region Office of Law Enforcement and the Service's Co-management Council Coordinator within 2 business days. The Service will then inform any affected Federal agency when residents of excluded areas are allowed to participate in the subsistence harvest within their Federal lands.

3. Amend § 92.22 by revising paragraphs (a) through (l) and adding paragraph (m) to read as follows:

**§ 92.22 Subsistence migratory bird species.**

\* \* \* \* \*

(a) *Family Anatidae*. (1) Emperor Goose (*Anser canagicus*)—except no egg gathering is permitted.

(2) Snow Goose (*Anser caerulescens*).

(3) Greater White-fronted Goose (*Anser albifrons*).

(4) Brant (*Branta bernicla*)—except no egg gathering is permitted in the Yukon/Kuskokwim Delta and the North Slope regions.

(5) Cackling Goose (*Branta hutchinsii*)—except in the Semidi Islands.

(6) Canada Goose (*Branta canadensis*).

(7) Tundra Swan (*Cygnus columbianus*)—except in Units 9(D) and 10.

(8) Blue-winged Teal (*Spatula discors*).

- (9) Northern Shoveler (*Spatula clypeata*).
- (10) Gadwall (*Mareca strepera*).
- (11) Eurasian Wigeon (*Mareca penelope*).
- (12) American Wigeon (*Mareca americana*).
- (13) Mallard (*Anas platyrhynchos*).
- (14) Northern Pintail (*Anas acuta*).
- (15) Green-winged Teal (*Anas crecca*).
- (16) Canvasback (*Aythya valisineria*).
- (17) Redhead (*Aythya americana*).
- (18) Ring-necked Duck (*Aythya collaris*).
- (19) Greater Scaup (*Aythya marila*).
- (20) Lesser Scaup (*Aythya affinis*).
- (21) King Eider (*Somateria spectabilis*).
- (22) Common Eider (*Somateria mollissima*).
- (23) Harlequin Duck (*Histrionicus histrionicus*).
- (24) Surf Scoter (*Melanitta perspicillata*).
- (25) White-winged Scoter (*Melanitta deglandi*).
- (26) Black Scoter (*Melanitta americana*).
- (27) Long-tailed Duck (*Clangula hyemalis*).
- (28) Bufflehead (*Bucephala albeola*).
- (29) Common Goldeneye (*Bucephala clangula*).
- (30) Barrow's Goldeneye (*Bucephala islandica*).
- (31) Hooded Merganser (*Lophodytes cucullatus*).
- (32) Common Merganser (*Mergus merganser*).
- (33) Red-breasted Merganser (*Mergus serrator*).
- (b) Family Podicipedidae. (1) Horned Grebe (*Podiceps auritus*).

- (2) Red-necked Grebe (*Podiceps grisegena*).
- (c) *Family Gruidae*. (1) Sandhill Crane (*Antigone canadensis*).
- (2) [Reserved]
- (d) *Family Haematopodidae*. (1) Black Oystercatcher (*Haematopus bachmani*).
- (2) [Reserved]
- (e) *Family Charadriidae*. (1) Black-bellied Plover (*Pluvialis squatarola*).
- (2) Common Ringed Plover (*Charadrius hiaticula*).
- (f) *Family Scolopacidae*. (1) Bar-tailed Godwit (*Limosa lapponica*).
- (2) Ruddy Turnstone (*Arenaria interpres*).
- (3) Sharp-tailed Sandpiper (*Calidris acuminata*).
- (4) Dunlin (*Calidris alpina*).
- (5) Baird's Sandpiper (*Calidris bairdii*).
- (6) Least Sandpiper (*Calidris minutilla*).
- (7) Semipalmated Sandpiper (*Calidris pusilla*).
- (8) Western Sandpiper (*Calidris mauri*).
- (9) Long-billed Dowitcher (*Limnodromus scolopaceus*).
- (10) Common Snipe (*Gallinago gallinago*).
- (11) Wilson's Snipe (*Gallinago delicata*).
- (12) Spotted Sandpiper (*Actitis macularius*).
- (13) Lesser Yellowlegs (*Tringa flavipes*).
- (14) Greater Yellowlegs (*Tringa melanoleuca*).
- (15) Red-necked Phalarope (*Phalaropus lobatus*).
- (16) Red Phalarope (*Phalaropus fulicarius*).
- (g) *Family Stercorariidae*. (1) Pomarine Jaeger (*Stercorarius pomarinus*).
- (2) Parasitic Jaeger (*Stercorarius parasiticus*).
- (3) Long-tailed Jaeger (*Stercorarius longicaudus*).

- (h) *Family Alcidae*. (1) Common Murre (*Uria aalge*).
- (2) Thick-billed Murre (*Uria lomvia*).
- (3) Black Guillemot (*Cepphus grylle*).
- (4) Pigeon Guillemot (*Cepphus columba*).
- (5) Cassin's Auklet (*Ptychoramphus aleuticus*).
- (6) Parakeet Auklet (*Aethia psittacula*).
- (7) Least Auklet (*Aethia pusilla*).
- (8) Whiskered Auklet (*Aethia pygmaea*).
- (9) Crested Auklet (*Aethia cristatella*).
- (10) Rhinoceros Auklet (*Cerorhinca monocerata*).
- (11) Horned Puffin (*Fratercula corniculata*).
- (12) Tufted Puffin (*Fratercula cirrhata*).
- (i) *Family Laridae*. (1) Black-legged Kittiwake (*Rissa tridactyla*).
- (2) Red-legged Kittiwake (*Rissa brevirostris*).
- (3) Ivory Gull (*Pagophila eburnea*).
- (4) Sabine's Gull (*Xema sabini*).
- (5) Bonaparte's Gull (*Chroicocephalus philadelphia*).
- (6) Mew Gull (*Larus canus*).
- (7) Herring Gull (*Larus argentatus*).
- (8) Slaty-backed Gull (*Larus schistisagus*).
- (9) Glaucous-winged Gull (*Larus glaucescens*).
- (10) Glaucous Gull (*Larus hyperboreus*).
- (11) Aleutian Tern (*Onychoprion aleuticus*).
- (12) Arctic Tern (*Sterna paradisaea*).
- (j) *Family Gaviidae*. (1) Red-throated Loon (*Gavia stellata*).
- (2) Arctic Loon (*Gavia arctica*).

(3) Pacific Loon (*Gavia pacifica*).

(4) Common Loon (*Gavia immer*).

(5) Yellow-billed Loon (*Gavia adamsii*)—In the North Slope Region only, a total of up to 20 yellow-billed loons inadvertently caught in fishing nets may be kept for subsistence purposes.

(k) *Family Procellariidae*. (1) Northern Fulmar (*Fulmarus glacialis*).

(2) [Reserved]

(l) *Family Phalacrocoracidae*. (1) Double-crested Cormorant (*Phalacrocorax auritus*).

(2) Pelagic Cormorant (*Phalacrocorax pelagicus*).

(m) *Family Strigidae*. (1) Great Horned Owl (*Bubo virginianus*).

(2) Snowy Owl (*Bubo scandiacus*).

4. Amend § 92.31 by revising paragraph (e) to read as follows:

**§ 92.31 Region-specific regulations.**

\* \* \* \* \*

(e) *Kodiak Archipelago region*. The Kodiak Island Roaded Area is open to the harvesting of migratory birds and their eggs by registration permit only as administered by the Alaska Department of Fish and Game, Division of Subsistence, in cooperation with the Sun'aq Tribe of Kodiak. No hunting or egg gathering for Arctic terns, Aleutian terns, mew gulls, and emperor geese is allowed for the Kodiak Island Roaded Area Registration Permit Hunt. The Kodiak Island Roaded Area consists of that portion of Kodiak Island (including exposed tidelands) south of a line from Termination Point along the north side of Cascade Lake to Anton Larsen Bay and east of a line from Crag Point to the west end of Saltery Cove. Marine waters adjacent to the Kodiak Island Roaded Area within 500 feet from the water's edge are included in the Kodiak Island Roaded Area. The Kodiak Island Roaded Area does not include islands offshore of Kodiak Island. A registration permit is not required to hunt on lands and waters outside the Kodiak Island Roaded Area.

\* \* \* \* \*

**Shannon A. Estenoz,**

*Principal Deputy Assistant Secretary for Fish and Wildlife and Parks,*

*Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.*

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